

No. 83-2098

Office - Supreme Court, U.S.

FILED

NOV 5 1984

ALBERT STEVAS.
CLERK

IN THE
Supreme Court of the United States

October Term, 1984

BENJAMIN H. SASWAY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit

PETITIONER'S SUPPLEMENTAL BRIEF

CHARLES T. BUMER
Counsel of Record
1168 Union Street, Suite 202
San Diego, California 92101
(619) 234-1883

PETER GOLDBERGER
Whittier College School of Law
5353 West Third Street
Los Angeles, California 90020
(213) 938-3621

CAROL L. DELTON
MICHAEL J. VEILUVA
JONATHAN M. SOFFER
Berkeley Draft Counseling and
Resource Center
2700 Bancroft Way
Berkeley, California 94704
(415) 845-2728

Attorneys for Petitioner

299

PETITIONER'S SUPPLEMENTAL BRIEF

Pursuant to this Court's Rule 22.6, petitioner Benjamin H. Sasway invites the Court's attention to a new case not available at the time of petitioner's last filing, dealing with the exclusion of defense evidence (Question 2).

The Minnesota Supreme Court has unanimously ruled that a criminal defendant has a federal due process right to testify about his intent and motive in explaining his conduct to the jury. *State of Minnesota v. Brechon*, 352 N.W. 3d 745, 750-751 (Minn. 1984). This decision by a state court of last resort is in direct conflict with the decision of the Ninth Circuit Court of Appeals in this case. (Rule 17.1(b).)

CONCLUSION

For the above reasons, as well as for those heretofore stated, certiorari should be granted.

DATED: November 2, 1984

Respectfully submitted,

CHARLES T. BUMER
PETER GOLDBERGER
CAROL L. DELTON
MICHAEL J. VEILUVA
JONATHAN M. SOFFER

Attorneys for Petitioner